

Message Text

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TAGS: MARR, ETRN,PBOR, UK, US

SUBJECT: AIRCRAFT USER CHARGES - SHANWICK OCEANIC CONTROL
AREA

REF: (A) LONDON 4161, (B) LONDON A-251, (C) LONDON 3332,
(D) STATE 47303, (E) STATE 32916, 22 FEB 73,
(F) LONDON 698, 19 JAN 73, (G) STATE 229761, 20 DEC 72

1. EXAMINATION OF US AND UK POSITIONS ON THIS MATTER HAS
LED TO CONCLUSION THAT LEGALISTIC ARGUMENTS ARE NOT BEST
MEANS OF SECURING HMG AGREEMENT TO CONTINUE EXEMPTION OF
US MILITARY AIRCRAFT FROM AIR NAVIGATION CHARGES IN THE
SHANWICK OCA. IN VIEW OF EMBASSY ASSESSMENT CONTAINED
REF TEL (A) THAT LABOR GOVERNMENT DESIRES TO "BEND"
WHenever POSSIBLE WHERE US FORCES CONCERNED AND "TAKE AS
HELPFUL AND FORTHCOMING A LINE TOWARD US FORCES AND US
MILITARY ACTIVITIES HERE AND IN NATO AS THE POLITICAL
SITUATION WILL PERMIT," WE ARE HOPEFUL THAT AN APPROACH
TO HMG BASED ON OUR CLOSE MUTUAL DEFENSE RELATIONSHIP
RATHER THAN TECHNICALITIES OF INTERNATIONAL LAW WILL MEET
A FAVORABLE RESPONSE.

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2. WE ARE OF VIEW THAT ANY SERVICES RENDERED TO US MILITARY AIRCRAFT BY UK AIR TRAFFIC CONTROL AUTHORITIES AS A RESULT OF THE FILING OF FLIGHT PLANS ARE INCIDENTAL TO THE PRIMARY PURPOSE OF FILING SUCH PLANS, I.E., TO COOPERATE WITH CIVIL AVIATION AUTHORITIES IN ORDER TO

ASSURE THE SAFETY OF AVIATION IN THE AREA. ASSUMING ARGUENDO THAT FILING FLIGHT PLAN CONSTITUTES REQUEST FOR AIR TRAFFIC CONTROL SERVICES FROM UK AUTHORITIES, USG DOES NOT CONSIDER CHARGES FOR SUCH SERVICES CONSISTENT WITH CLOSE US/UK MUTUAL DEFENSE RELATIONSHIP. FCO STATEMENT (REF B) THAT FAILURE TO FILE FLIGHT PLAN WOULD BE "UNJUSTIFIABLE AS REGARDS THE SAFETY OF AIRCRAFT USING THE AIRSPACE CONCERNED" RECOGNIZES THAT US MILITARY AIRCRAFT, ALTHOUGH HAVING NO LEGAL OBLIGATION TO DO SO, HAVE LITTLE CHOICE UNDER USUAL CIRCUMSTANCES BUT TO FILE FLIGHT PLANS WHEN ENTERING SHANWICK OCA. THE IMPOSITION OF AIR TRAFFIC CONTROL SERVICE CHARGES UNDER SUCH CIRCUMSTANCES AMOUNTS TO A CHARGE FOR THE MERE ENTRY INTO AIRSPACE UNDER UK AIR TRAFFIC CONTROL AND IS, IN EFFECT, A DIRECT CHARGE ON THE CONDUCT OF US MILITARY OPERATIONS IN INTERNATIONAL AIRSPACE WITHIN THE NORTH ATLANTIC TREATY AREA.

3. IN ASSESSING FINANCIAL BURDEN ON USG OF SUCH CHARGES, IT MUST BE BORNE IN MIND THAT US MILITARY AIRCRAFT OPERATE IN EVERY CORNER OF THE GLOBE AND THAT THE ASSESSMENT OF SUCH CHARGES BY ALL COUNTRIES OPERATING AIR TRAFFIC CONTROL FACILITIES WOULD IMPOSE A SUBSTANTIAL ADDITIONAL BURDEN ON THE US DEFENSE BUDGET. THUS FAR WE HAVE BEEN SUCCESSFUL IN KEEPING SUCH CHARGES AT A MINIMUM. THUS, ALL NATO ALLIES WITHIN EUROCONTROL EXCEPT FRANCE EXEMPT US MILITARY AIRCRAFT FROM EUROCONTROL CHARGES. (DISCUSSIONS WITH FRANCE REGARDING EXEMPTION FROM THESE CHARGES ARE STILL IN PROGRESS.) IN ADDITION, EVERY OTHER EUROCONTROL COUNTRY (EXCEPTING AUSTRIA AND SWITZERLAND FOR UNIQUE REASONS), INCLUDING IRELAND FOR EXAMPLE, EXEMPTS US MILITARY AIRCRAFT FROM AIR NAVIGATION CHARGES. UNDER SUCH CIRCUMSTANCES, IT WOULD BE PARTICULARLY INAPPROPRIATE FOR CLOSE ALLY LIKE UK TO SEEK

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TO IMPOSE AIR NAVIGATION CHARGES AGAINST US MILITARY AIRCRAFT TRANSITING ONLY INTERNATIONAL AIRSPACE. THE ADVERSE EFFECT OF SUCH A PRECEDENT IS READILY APPARENT.

4. GIVEN THE SCOPE OF US/UK MUTUAL DEFENSE ACTIVITIES, THERE ARE COUNTLESS INSTANCES WHERE ONE PARTY WILL BENEFIT FROM THE ACTIVITIES OF THE OTHER PARTY. WHILE CHARGES FOR SPECIFIC SPECIAL SERVICES ARE OFTEN REQUIRED, ALLIES

SHOULD NOT CHARGE EACH OTHER FOR INCIDENTAL BENEFITS OF THEIR MUTUAL DEFENSE RELATIONSHIP. IN THIS REGARD IT SHOULD BE NOTED THAT THE USG CONTINUES TO WAIVE ALL CHARGES FOR AIR TRAFFIC CONTROL SERVICES TO UK MILITARY AIRCRAFT. IN CONCLUSION, WE ARE HOPEFUL THAT HMG WILL UNDERSTAND THAT CONTINUED EXEMPTION FROM THESE CHARGES WILL

BE OF SUBSTANTIAL BENEFIT TO USG IN KEEPING THE FINANCIAL BURDEN OF ITS DEFENSE COMMITMENTS UNDER CONTROL WITHOUT IMPOSING ANY SIGNIFICANT ADDITIONAL EXPENSE ON HMG. KISSINGER

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